

Message

From: Payton, Richard [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B05F3A57A2C24A16AF33518E56451BF7-PAYTON, RICHARD]
Sent: 11/2/2016 2:20:37 PM
To: gregory.harshfield@state.co.us; gordon.pierce@state.co.us
Subject: demonstrations for 2016 ozone EE flags

Gordon and Greg:

I spoke with Beth Palma of OAQPS on your question about 2016 ozone flags, and we are in agreement in our interpretation of the reg language and our intent.

40 CFR 50.14(c)(2)(vi) says

“Table 2 to §50.14 identifies the submission process for data that will or may influence the initial designation of areas for any new or revised national ambient air quality standard.”

If your 2016 ozone flags influence the initial designation (change from NAAQS violation to NAAQS attainment, change DV in a way that would change the marginal/moderate classification, or impact the boundary of a non-attainment area) then the demonstration is due May 31. If, on the other hand, the flags would not impact those initial designation decisions, the schedule of 50 CFR 50.14(c)(3) applies:

“Submission of demonstrations. (i) Except as provided under paragraph (c)(2)(vi) of this section, a State that has flagged data as being due to an exceptional event and is requesting exclusion of the affected measurement data shall, after notice and opportunity for public comment, submit a demonstration to justify data exclusion to the Administrator according to the schedule established under paragraph (c)(2)(i)(B).”

40 CFR 50.14(c)(2)(i)(B) in turn says:

“For data that may affect an anticipated regulatory determination or where circumstances otherwise compel the Administrator to prioritize the resulting demonstration, the Administrator shall respond to a State's Initial Notification of Potential Exceptional Event with a due date for demonstration submittal that considers the nature of the event and the anticipated timing of the associated regulatory decision;”

We still intend to develop “alternate paths” guidance, which would deal with situation like exceptional events impacting modeling baseline design values used for SIP modeling of future attainment, but, if instead we decide that that case is covered by 50.14, we would develop a due date later that was in time to support the SIP modeled attainment demonstration. So, for now, you can flag 2016 at your convenience, and wait until later to see if a demonstration is needed.

Let me know if you have questions or further concerns.

Richard Payton
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